

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GRANT LESLIE WASHAM,
Petitioner,
v.
PEOPLE OF CALIFORNIA,
Respondent.

Case No. [19-cv-02176-JD](#)

**ORDER GRANTING LEAVE TO
PROCEED IN FORMA PAUPERIS
AND DISMISSING PETITION
WITH LEAVE TO AMEND**

Re: Dkt. No. 5

Petitioner, a prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He also applied for leave to proceed in forma pauperis. Petitioner was convicted in Lake County, which is in this district, so venue is proper here. *See* 28 U.S.C. § 2241(d).

BACKGROUND

Petitioner states he was convicted and sentenced on February 19, 2019, for false imprisonment with violence. Petition at 2. He states that he did not appeal the conviction or file a state habeas petition. *Id.* at 5-6.

DISCUSSION

STANDARD OF REVIEW

The Court may consider a petition for writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An application for a federal writ of habeas corpus filed by a prisoner who is in state custody pursuant to a judgment of a state court

1 must “specify all the grounds for relief available to the petitioner ... [and] state the facts supporting
2 each ground.” Rule 2(c) of the Rules Governing § 2254 Cases, 28 U.S.C. § 2254. “[N]otice’
3 pleading is not sufficient, for the petition is expected to state facts that point to a ‘real possibility
4 of constitutional error.’” Rule 4 Advisory Committee Notes (quoting *Aubut v. Maine*, 431 F.2d
5 688, 689 (1st Cir. 1970)).

6 LEGAL CLAIMS

7 Petitioner argues that pursuant to state law he is entitled to more good conduct credits and
8 should be released from custody sooner than his anticipated release date. Assuming that petitioner
9 has presented a federal claim, it does not appear that he has exhausted this claim in state court.

10 Before he may challenge either the fact or length of his confinement in a habeas petition in
11 this Court, petitioner must present to the California Supreme Court any claims he wishes to raise
12 in this Court. *See Rose v. Lundy*, 455 U.S. 509, 522 (1982) (holding every claim raised in federal
13 habeas petition must be exhausted). The general rule is that a federal district court must dismiss a
14 federal habeas petition containing any claim as to which state remedies have not been exhausted.
15 *Id.*

16 It appears that petitioner has presented an entirely unexhausted petition. The petition is
17 dismissed with leave to amend to demonstrate that he exhausted the claim. Petitioner should also
18 provide more information regarding his claim and describe how it presents a federal claim. He
19 must present a claim regarding a violation of the Constitution or laws or treaties of the United
20 States. 28 U.S.C. § 2254(a).

21 CONCLUSION

22 1. Leave to proceed in forma pauperis (Docket No. 5) is **GRANTED**.

23 2. Within **twenty-eight (28) days** of service of this order, petitioner must file an
24 amended petition and he may file a motion for a stay. Failure to file an amended petition within
25 the designated time may result in the dismissal of this action.


26 3. Petitioner must keep the Court informed of any change of address and must comply
27 with the Court’s orders in a timely fashion. Failure to do so may result in the dismissal of this
28 action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *See Martinez v.*

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Johnson, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

IT IS SO ORDERED.

Dated: July 30, 2019



JAMES DONATO
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GRANT LESLIE WASHAM,
Plaintiff,
v.
PEOPLE OF CALIFORNIA,
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CERTIFICATE OF SERVICE

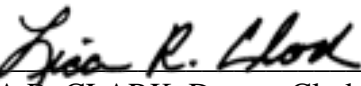
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 30, 2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Grant Leslie Washam ID: #37933
Lake County Sheriff's Office
4913 Helbush Dr.
Lakeport, CA 95453

Dated: July 30, 2019

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO